

D'AGOSTINE, LEVINE & GORDON, P.C.

ATTORNEYS AT LAW

268 MAIN STREET

ACTON, MASSACHUSETTS 01720-2223

508-263-7777

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BOSTON OFFICE:
ONE BOSTON PLACE

CABLE 'DALYN'

JULIAN J. D'AGOSTINE
LOUIS N. LEVINE
STANLEY L. GORDON
F. ALEX PARRA
CATHY S. NETBURN

August 29, 1994

Roy C. Smith, President
R. Smith Associates, Inc.
292 Great Road
Acton, MA 01720

Re: Audubon Hill South and North Condominiums, Acton, MA

Dear Roy:

Enclosed please find copy of executed Quitclaim Deed of Elderly Center and Recreation Parcel to Audubon Hill South and North Condominium Association, Inc., which was recorded with the Middlesex South District Registry of Deeds as Instrument No. 41 of August 15, 1994. Please be advised that it is your obligation to inform the unit owners of the change of ownership.

Please call me directly with any questions or concerns.

Very truly yours,

D'AGOSTINE, LEVINE & GORDON, P.C.

By: 
Stanley L. Gordon

VV

Enclosure

s:\letter\smith.wp

QUITCLAIM DEED

R. SMITH ASSOCIATES, INC., a Massachusetts corporation, with a usual place of business at 292 Great Road, Acton, Middlesex County, Massachusetts 01720

for a nominal consideration of ONE AND 00/100 (\$1.00) DOLLAR paid

grants to AUDUBON HILL SOUTH CONDOMINIUM ASSOCIATION, INC., a Massachusetts corporation, with a usual place of business at 115 Audubon Drive, Acton, Middlesex County, Massachusetts, a one-half (1/2) undivided interest, and to AUDUBON HILL NORTH CONDOMINIUM ASSOCIATION, INC., a Massachusetts corporation, with a usual place of business at 115 Audubon Drive, Acton, Middlesex County, Massachusetts, a one-half (1/2) undivided interest, both as Tenants in Common and not as Joint Tenants

with QUITCLAIM COVENANTS

Two certain parcels of land, with the improvements thereon, in Acton, Middlesex County, Massachusetts, being labelled "Recreation Center" and "Elderly Center", the Recreation Center being shown as Lot R on a plan entitled, "Plan Of Lot R Phase R" dated December 20, 1993, prepared by Jones & Beach Engineers, Inc., recorded with the Middlesex South District Registry of Deeds as Plan No. 332 of 1994, in Book 24450, Page 410, and the Elderly Center being shown as Lot E on a plan entitled, "Plan of Development Property For Audubon Hill in Acton, Mass", dated July 17, 1989, prepared by Acton Survey & Engineering, Inc., recorded with the Middlesex South District Registry of Deeds as Plan No. 998 of 1989, in Book 20065, Page 415, to which plans reference may be had for a more particular description of said Lot R and Lot E.

Lot R contains 56,066 square feet, more or less, according to said Plan.

Lot E contains 72,414 square feet, more or less, according to said Plan.

Said premises are conveyed together with the right to pass and repass Audubon Drive for access to and from said parcels of land being conveyed herein.

Said premises are conveyed subject to and together with the benefit of any and all rights, easements, restrictions and agreements of record, insofar as the same are in force and applicable.

B 2 4 1 2 1 P 2 9 3
AMENDMENT NO. 4 TO THE MASTER DEED
OF AUDUBON HILL NORTH CONDOMINIUM

PHASE III (N-3)
SUB-PHASE 1

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720 being the Declarant in a Master Deed of Audubon Hill North Condominium dated May 20, 1993 recorded June 17, 1993 as instrument No. 79 of, of June 17, 1993, in Book 23314 , page 569 with the Middlesex South District Registry of Deeds, in accordance with the Provisions Of said Master Deed as amended, including but not limited to Sections 1, 11 and 14 of said Master Deed does hereby amend the Master Deed of Audubon Hill South (should be North) Condominium to create Sub-Phase 1 of Phase II (N-2) of said Condominium to be governed by and subject to the provisions of the Master Deed, By-Laws and the Massachusetts general Laws, Chapter 183A, as amended.

1. **UNIT OWNERS ORGANIZATION.** The Condominium will be managed and regulated by the Audubon Hill North Condominium Association, Inc., as provided and set forth in said Master Deed.
2. **DESCRIPTION OF PREMISES** Said Phase III (N-3) is located on land located at High Street, Acton, Middlesex County, Massachusetts, as described in Schedule A of this Amendment and consists of the eight (8) Units, being Units 102, 104, 106, 108, 110, 112, 114 and 116 within Phase N-3. Units 110, 112, 114 and 116 are shown on a plan entitled "Audubon Hill North Condominium, Acton, Mass. Unit Plan of Lot N Phase N-3" dated December 20, 1993, Jones & Reach Engineers, Inc., to be recorded herewith and located on the condominium site plan recorded as Plan No. 176 of 1993, said Plans being the Condominium Plans hereinafter referred to.
3. **DESCRIPTION OF BUILDING.** Sub Phase 1 of Phase III of the Condominium consists of two (2) buildings each containing two (2) units, as shown on the Condominium Plans hereinbefore referenced . Said buildings are constructed principally of masonry foundation, wood frame, wood siding with asphalt shingle roof as shown in the Condominium Plans above described and having such characteristics as are set forth in schedule B attached hereto.
4. **DESIGNATION OF UNITS.** Unit Designation, Number of Rooms, Approximate Area and other descriptive information are shown on the attached Schedule B and the Condominium Plans.
5. **INTEREST OF UNIT OWNER** The Owners of each Unit shall be entitled to an undivided interest in the common areas and facilities of the Condominium in the percentages as set forth in the attached Schedule C.
6. **BOUNDARIES OF THE UNITS.** The boundaries of the units are as set forth in Paragraph 7 of the said Master Deed.

7. **RESTRICTION ON USE OF UNITS.** The said units are subject to the restrictions as set forth in Paragraph 9 of the Master Deed.

8. **UNIT APPURTENANCES.** Appurtenant to each unit is membership in the Association which shall be in the same Percentage as an individual Unit Owner's common interest. Such membership is not assignable or severable from the ownership of such unit. All of the units shall have appurtenant thereto, in common with each other, the right and easement to use the common areas, subject to and in accordance with the restrictions, limitations, provisions, and conditions as hereinbefore and hereinafter set forth in the Master Deed and the provisions of the By-Laws of the Association and the Rules and Regulations Promulgated under the By-Laws.

9. **COMMON AREAS AND FACILITIES.** The common areas and facilities are as set forth in Paragraph 11 of the Master Deed and are further subject to the rights of the Declarant to construction of subsequent Phases as provided therein.

10. **INCORPORATION OF PROVISIONS OF THE MASTER DEED.** Each of the units in Phase III is subject to all of the provisions of said Master Deed, the By-Laws of the Audubon Hill North Condominium Association, Inc., and such Rules and Regulations as may now or hereafter be established.

Witness our hands and seals this 31st day of December, 1993.

For Authority, see
Certificate of Note
recorded as Instrument
No. 20 of October 19, 1993

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

December 31, 1993

Then personally appeared the above-named Roy C. Smith, President as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of R. Smith Associates, Inc., before me

Stanley L. Gordon
Notary Public

My commission expires: Dec. 1, 2000

AUDUBON HILL NORTH CONDOMINIUM

SCHEDULE B
PHASE III (N-3)
SUB-PHASE 1

<u>UNIT</u>	<u>SQUARE FOOTAGE</u>
110	2,276
112	2,113
114	2,147
116	2,298

The Unit Designation of each Unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access and any other data necessary for its proper identification, are shown on the Condominium Plans hereinbefore mentioned, and recorded herewith, which is incorporated herein and made a part thereof.

AUDUBON HILL, NORTH, CONDOMINIUM

SCHEDULE C

Percentage of Interest
Upon Completion of Phases I and II
(N-1 and N-2)

<u>UNIT NO.</u>	<u>PERCENTAGE OF INTEREST.</u>
110	3.7965
112	3.9764
114	3.7266
116	3.9764
118	3.7965
120	3.7965
122	3.7965
124	3.7965
126	3.7965
128	3.7965
130	3.7965
132	3.9764
113	3.7965
115	3.7965
117	3.7965
119	3.7166
121	3.9764
123	3.7965
125	3.7965
127	3.7965
101	3.7965
103	3.7965
105	3.9764
107	3.7965
109	3.9764
111	3.9764

	100.00%

As of the date of recording of the Master Deed, as amended, the Declarant in setting the percentages as set forth in this Schedule C, has complied with the provisions of Chapter 183A and pursuant to the provisions of the Master Deed, including but not limited to Paragraphs 1, 11, and 14 of the same, the Declarant reserves the right to add additional phases, in an order so desired, including the right to Include sub-phases within any such phase, as well as the right to eliminate any phases and modify the percentage of interest so as at all time to be in compliance with the aforesaid provisions of Chapter 183A. The Declarant will modify the percentage of interest of all subsequent phases in compliance with the aforesaid provisions of Chapter 183A at the time of creation of such additional phases or sub-phases, as the same may be required depending on the type and mix of the units in the said future phases.

**AMENDMENT NO. 5 TO THE MASTER DEED
OF AUDUBON HILL NORTH CONDOMINIUM**

**PHASE III (N-3)
SUB-PHASE 2**

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill North Condominium dated May 20, 1993, recorded June 17, 1993, as Instrument No. 79 of June 17, 1993, in Book 23314, Page 569, with the Middlesex South District Registry of Deeds, in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11 and 14 of said Master Deed does hereby amend the Master Deed of Audubon Hill South (should be North) Condominium to create Sub-Phase 2 of Phase III (N-3) of said Condominium to be governed by and subject to the provisions of the Master Deed, By-Laws and the Massachusetts general Laws, Chapter 183A, as amended.

1. UNIT OWNERS ORGANIZATION. The Condominium will be managed and regulated by the Audubon Hill North Condominium Association, Inc., as provided and set forth in said Master Deed.

2. DESCRIPTION OF PREMISES. Said Phase III (N-3) is located on land located at High Street, Acton, Middlesex County, Massachusetts, as described in Schedule A of this Amendment and consists of eight (8) Units being Units 102, 104, 106, 108, 110, 112, 114, and 116 within Phase N-3. Units 102, 104, 106, and 108 are shown on a plan entitled, "Audubon Hill North Condominium, Acton, Mass., Unit Plan of Lot N, Phase N-3", to be recorded herewith, and located on the condominium site plan recorded as Plan No. 376 of 1993, said Plans being the Condominium Plans hereinafter referred to.

3. DESCRIPTION OF BUILDING. Sub-Phase 2 of Phase III of the Condominium consists of two (2) buildings each containing two (2) units, as shown on the Condominium Plans hereinbefore referenced. Said buildings are constructed principally of masonry foundation, wood frame, wood siding with asphalt shingle roof as shown in the Condominium Plans above described and having such characteristics as are set forth in Schedule B attached hereto.

4. DESIGNATION OF UNITS. Unit Designation, Number of Rooms, Approximate Area and other descriptive information are shown on the attached Schedule B and the Condominium Plans.

5. INTEREST OF UNIT OWNER. The Owners of each unit shall be entitled to an undivided interest in the common areas and facilities of the Condominium in the percentages as set forth in the attached Schedule C.

6. BOUNDARIES OF UNIT. The boundaries of the units are as set forth in Paragraph 7 of the said Master Deed.

7. RESTRICTIONS ON USE OF UNITS. The said units are subject to the restrictions as set forth in Paragraph 9 of the Master Deed.

8. UNIT APPURTENANCES. Appurtenant to each unit is membership in the Association which shall be in the same percentage as an individual Unit Owner's common interest. Such membership is not assignable or severable from the ownership of such unit. All of the units shall have appurtenant thereto, in common with each other, the right and easement to use the common areas, subject to and in accordance with the restrictions, limitations, provisions, and conditions as hereinbefore and hereinafter set forth in the Master Deed and the provisions of the By-Laws of the Association and the Rules and Regulations promulgated under the By-Laws.

9. COMMON AREAS AND FACILITIES. The common areas and facilities are as set forth in Paragraph 11 of the Master Deed and are further subject to the rights of the Declarant to construction of subsequent Phases as provided therein.

10. INCORPORATION OF PROVISIONS OF THE MASTER DEED. Each of the units in Phase III is subject to all of the provisions of said Master Deed, the By-Laws of the Audubon Hill North Condominium Association, Inc., and such Rules and Regulations as may now or hereafter be established.

WITNESS MY HAND AND SEAL this 14th Day of February, 1994.

For Authority, see
Certificate of Vote
recorded as Instrument
No. 20 of October 19, 1993

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 14, 1994

Then personally appeared the above-named Roy C. Smith, President as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public
My Commission Expires:

Stanley L. Gordon
NOTARY PUBLIC My Commission Expires Dec. 1, 2000

AUDUBON HILL NORTH CONDOMINIUM

SCHEDULE B

**PHASE III (N-3)
SUB-PHASE 2**

<u>UNIT NO.</u>	<u>SQUARE FOOTAGE</u>
102	2,245
104	2,153
106	2,249
108	2,111

The Unit Designation of each Unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access and any other data necessary for its proper identification, are shown on the Condominium Plans hereinbefore mentioned, and recorded herewith, which is incorporated herein and made a part hereof.

s:\condo\amend.wp

AUDUBON HILL NORTH CONDOMINIUM

SCHEDULE C

Percentage of Interest
Upon Completion of Phases I, II and III (N-1, N-2, and N-3)

<u>UNIT NO.</u>	<u>PERCENTAGE OF INTEREST</u>
101	3.2786
103	3.2786
105	3.4339
107	3.2786
109	3.4339
111	3.4339
113	3.2786
115	3.4339
117	3.2786
119	3.2096
121	3.4339
123	3.2786
125	3.2786
127	3.2786
118	3.2786
120	3.2786
122	3.2786
124	3.2786
126	3.2786
128	3.2786
130	3.2786
132	3.4339
110	3.2786
112	3.4339
114	3.4339
116	3.4339
102	3.4339
104	3.2786
106	3.2786
108	3.4339
	100%

As of the date of recording of the Master Deed, as amended, the Declarant in setting the percentages as set forth in this Schedule C, has complied with the provisions of Chapter 183A and pursuant to the provisions of the Master Deed, including but not limited to Paragraphs 1, 11, and 14 of the same, the Declarant reserves the right to add additional phases, in an order so desired, including the right to include sub-phases within any such phase, as well as the right to eliminate any phases and modify the percentage of interest so as at all time to be in compliance with the aforesaid provisions of Chapter 183A. The Declarant will modify the percentage of interest of all subsequent phases in compliance with the aforesaid provisions of Chapter 183A at the time of creation of such additional phases or sub-phases, as the, same may be required depending on the type and mix of the units in the said future phases.

s:\condo\amend.wp.

B 2 4 1 2 1 P 2 9 3
AMENDMENT NO. 4 TO THE MASTER DEED
OF AUDUBON HILL NORTH CONDOMINIUM

PHASE III (N-3)
SUB-PHASE 1

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720 being the Declarant in a Master Deed of Audubon Hill North Condominium dated May 20, 1993 recorded June 17, 1993 as instrument No. 79 of, of June 17, 1993, in Book 23314 , page 569 with the Middlesex South District Registry of Deeds, in accordance with the Provisions Of said Master Deed as amended, including but not limited to Sections 1, 11 and 14 of said Master Deed does hereby amend the Master Deed of Audubon Hill South (should be North) Condominium to create Sub-Phase 1 of Phase II (N-2) of said Condominium to be governed by and subject to the provisions of the Master Deed, By-Laws and the Massachusetts general Laws, Chapter 183A, as amended.

1. **UNIT OWNERS ORGANIZATION.** The Condominium will be managed and regulated by the Audubon Hill North Condominium Association, Inc., as provided and set forth in said Master Deed.
2. **DESCRIPTION OF PREMISES** Said Phase III (N-3) is located on land located at High Street, Acton, Middlesex County, Massachusetts, as described in Schedule A of this Amendment and consists of the eight (8) Units, being Units 102, 104, 106, 108, 110, 112, 114 and 116 within Phase N-3. Units 110, 112, 114 and 116 are shown on a plan entitled "Audubon Hill North Condominium, Acton, Mass. Unit Plan of Lot N Phase N-3" dated December 20, 1993, Jones & Reach Engineers, Inc., to be recorded herewith and located on the condominium site plan recorded as Plan No. 176 of 1993, said Plans being the Condominium Plans hereinafter referred to.
3. **DESCRIPTION OF BUILDING.** Sub Phase 1 of Phase III of the Condominium consists of two (2) buildings each containing two (2) units, as shown on the Condominium Plans hereinbefore referenced . Said buildings are constructed principally of masonry foundation, wood frame, wood siding with asphalt shingle roof as shown in the Condominium Plans above described and having such characteristics as are set forth in schedule B attached hereto.
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6. **BOUNDARIES OF THE UNITS.** The boundaries of the units are as set forth in Paragraph 7 of the said Master Deed.

7. RESTRICTION ON USE OF UNITS. The said units are subject to the restrictions as set forth in Paragraph 9 of the Master Deed.

8. UNIT APPURTENANCES. Appurtenant to each unit is membership in the Association which shall be in the same Percentage as an individual Unit Owner's common interest. Such membership is not assignable or severable from the ownership of such unit. All of the units shall have appurtenant thereto, in common with each other, the right and easement to use the common areas, subject to and in accordance with the restrictions, limitations, provisions, and conditions as hereinbefore and hereinafter set forth in the Master Deed and the provisions of the By-Laws of the Association and the Rules and Regulations Promulgated under the By-Laws.

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Witness our hands and seals this 31st day of December, 1993.

For Authority, see
Certificate of Note
recorded as Instrument
No. 20 of October 19, 1993

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

December 31, 1993

Then personally appeared the above-named Roy C. Smith, President as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of R. Smith Associates, Inc., before me

Stanley L. Gordon

Notary Public

My commission expires: Dec. 1, 2000

AUDUBON HILL NORTH CONDOMINIUM

SCHEDULE B
PHASE III (N-3)
SUB-PHASE I

<u>UNIT</u>	<u>SQUARE FOOTAGE</u>
110	2,276
112	2,113
114	2,147
116	2,298

The Unit Designation of each Unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access and any other data necessary for its proper identification, are shown on the Condominium Plans hereinbefore mentioned, and recorded herewith, which is incorporated herein and made a part thereof.

AUDUBON HILL, NORTH, CONDOMINIUM

SCHEDULE C

Percentage of Interest
Upon Completion of Phases I and II
(N-1 and N-2)

<u>UNIT NO.</u>	<u>PERCENTAGE OF INTEREST.</u>
110	3.7965
112	3.9764
114	3.7266
116	3.9764
118	3.7965
120	3.7965
122	3.7965
124	3.7965
126	3.7965
128	3.7965
130	3.7965
132	3.9764
113	3.7965
115	3.7965
117	3.7965
119	3.7166
121	3.9764
123	3.7965
125	3.7965
127	3.7965
101	3.7965
103	3.7965
105	3.9764
107	3.7965
109	3.9764
111	3.9764

	100.00%

As of the date of recording of the Master Deed, as amended, the Declarant in setting the percentages as set forth in this Schedule C, has complied with the provisions of Chapter 183A and pursuant to the provisions of the Master Deed, including but not limited to Paragraphs 1, 11, and 14 of the same, the Declarant reserves the right to add additional phases, in an order so desired, including the right to include sub-phases within any such phase, as well as the right to eliminate any phases and modify the percentage of interest so as at all time to be in compliance with the aforesaid provisions of Chapter 183A. The Declarant will modify the percentage of interest of all subsequent phases in compliance with the aforesaid provisions of Chapter 183A at the time of creation of such additional phases or sub-phases, as the same may be required depending on the type and mix of the units in the said future phases.

**AMENDMENT NO. 5 TO THE MASTER DEED
OF AUDUBON HILL NORTH CONDOMINIUM**

**PHASE III (N-3)
SUB-PHASE 2**

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill North Condominium dated May 20, 1993, recorded June 17, 1993, as Instrument No. 79 of June 17, 1993, in Book 23314, Page 569, with the Middlesex South District Registry of Deeds, in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11 and 14 of said Master Deed does hereby amend the Master Deed of Audubon Hill South (should be North) Condominium to create Sub-Phase 2 of Phase III (N-3) of said Condominium to be governed by and subject to the provisions of the Master Deed, By-Laws and the Massachusetts general Laws, Chapter 183A, as amended.

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WITNESS MY HAND AND SEAL this 14th Day of February, 1994.

For Authority, see
Certificate of Vote
recorded as Instrument
No. 20 of October 19, 1993

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 14, 1994

Then personally appeared the above-named Roy C. Smith, President as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public
My Commission Expires:

Stanley L. Gordon
NOTARY PUBLIC My Commission Expires Dec.1, 2000

AUDUBON HILL NORTH CONDOMINIUM

SCHEDULE B

**PHASE III (N-3)
SUB-PHASE 2**

<u>UNIT NO.</u>	<u>SQUARE FOOTAGE</u>
102	2,245
104	2,153
106	2,249
108	2,111

The Unit Designation of each Unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access and any other data necessary for its proper identification, are shown on the Condominium Plans hereinbefore mentioned, and recorded herewith, which is incorporated herein and made a part hereof.

s:\condo\amend.wp

AUDUBON HILL NORTH CONDOMINIUM

SCHEDULE C

Percentage of Interest
Upon Completion of Phases I, II and III (N-1, N-2, and N-3)

<u>UNIT NO.</u>	<u>PERCENTAGE OF INTEREST</u>
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115	3.4339
117	3.2786
119	3.2096
121	3.4339
123	3.2786
125	3.2786
127	3.2786
118	3.2786
120	3.2786
122	3.2786
124	3.2786
126	3.2786
128	3.2786
130	3.2786
132	3.4339
110	3.2786
112	3.4339
114	3.4339
116	3.4339
102	3.4339
104	3.2786
106	3.2786
108	3.4339
	100%

As of the date of recording of the Master Deed, as amended, the Declarant in setting the percentages as set forth in this Schedule C, has complied with the provisions of Chapter 183A and pursuant to the provisions of the Master Deed, including but not limited to Paragraphs 1, 11, and 14 of the same, the Declarant reserves the right to add additional phases, in an order so desired, including the right to include sub-phases within any such phase, as well as the right to eliminate any phases and modify the percentage of interest so as at all time to be in compliance with the aforesaid provisions of Chapter 183A. The Declarant will modify the percentage of interest of all subsequent phases in compliance with the aforesaid provisions of Chapter 183A at the time of creation of such additional phases or sub-phases, as the, same may be required depending on the type and mix of the units in the said future phases.

s:\condo\amend.wp.

SUPPLEMENTAL AGREEMENT

This Agreement (the "Supplemental Agreement") is made as of the 27 day of October, 1989, by and between the Town of Acton, Massachusetts (the "Town"), a Massachusetts municipal corporation having its usual place of business at the Acton Town Hall, Acton, Massachusetts 01720, acting by and through its Town Manager, the duly authorized designee of the Town's Board of Selectmen under the terms and conditions of a certain Comprehensive Development Agreement (the "Development Agreement") dated as of the 23rd day of June, 1989, and R. Smith Associates, Inc. (the "Developer"), a Massachusetts corporation having its usual place of business at 292 Great Road, Acton, Massachusetts 01720.

RECITALS

Reference is made to the following facts:

A. The Town and the High Street PCRC Trust, Roy C. Smith, Trustee, u/d/t dated March 5, 1985, recorded with the Middlesex South Registry of Deeds in Book 18611, Page 609 and the Middlesex South Registry District of the Land Court as Document No. 758061 (the "Trust") entered into the Development Agreement in order to set out the terms and conditions under which the Development Property (as defined in the Development Agreement) would be developed.

B. Roy C. Smith, as trustee of the Trust, transferred the Development Property and related developments rights from the Trust to the Developer by deed dated as of July 24, 1989, and recorded with the Middlesex South Registry of Deeds in Book 19966, Page 308.

C. The Town and the Developer wish to establish that the Developer will develop the Development Property in accordance with the terms and conditions of the Development Agreement.

D. The Town and the Developer also wish to clarify certain of the terms and conditions of the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained in this Supplemental Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

granted to Developer until, in his sole discretion, more favorable conditions for such construction exist. The Special Permit may also require the Developer to "cap" any foundations constructed, subject to approval by the Town Fire Department of fire protection facilities and the Town Building Commissioner of such additional work.

The Developer acknowledges and agrees that the terms of this Supplemental Agreement and any Special Permit are in addition to and do not supersede the terms of the Development Agreement or any applicable zoning or building codes, ordinances, laws or regulations.

Prior to applying to the Town Building Commissioner for such a Special Permit, the Developer shall execute a restrictive covenant substantially in the form of the attached Exhibit A.

6. In the event the Town Building Commissioner grants one or more Special Permits to the Developer, the Developer shall:

- (a) prior to or concurrently with the construction of any foundations, construct and install all water mains (including fire protection water supplies and fixtures) and all road crossovers;
- (b) provide operational hydrants to the satisfaction of the Town Designee;
- (c) stabilize the cut abutting the main entrance to the Development Property to the satisfaction of the Town Designee and Town Engineer no later than November 13, 1989;
- (d) subgrade, address and finish with twelve (12) inches of bank run grade gravel all road and drive areas in the Development Property to the satisfaction of the Town Designee no later than November 10, 1989;
- (e) base pave Audubon Drive and Brewster Lane, as shown on the Site Plan; and
- (f) following construction of any foundation for which the Developer (i) does not receive building permit within six (6) weeks of such construction or (ii) for which the Developer receives a building permit, but does not begin frame construction for a period of four (4) or more weeks from such construction; construct a cover over each such foundation or surround each such foundation with a chain link

- (h) When the Southern Phase has been completed, the foundations for the Northern Phase will proceed as follows: Units 101, 103, 105, 107, 109, 111; Units 121, 123, 125, 127; Units 126, 128, 130, 132; Units 118, 120, 122, 124; Units 110, 112, 114, 116; and Units 102, 104, 106, 108.
- (i) When all the foundations have been poured and back filled, the Emergency Access Drive will be paved with binder.
- (j) Construction of the Conservation Area and trail system will be finished concurrent with the completion of the units on Brewster Lane. (Excess mulch will be stored for later use on the trails, if desired by the Conservation Commission.)
- (k) When construction and landscaping are complete on Brewster Lane, the final coat of paving will be placed on Brewster Lane, and on Audubon Drive up to the intersection of the Emergency Access Drive. Throughout the construction phase, primary access for construction vehicles will be through the Access Drive unless materials are coming from the Maynard/Concord end of High Street.
- (l) When all construction has been completed, the Emergency Access Drive will be completed, the landscaping and the entrance cleaned up and the gate secured.

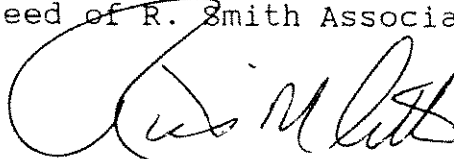
9. Capitalized terms used in this Supplemental Agreement and not otherwise defined shall have the meaning ascribed to them in the Development Agreement.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

OCTOBER 27, 1989

Then personally appeared before me the above-named Roy C. Smith, the President of R. Smith Associates, Inc., and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of R. Smith Associates, Inc., before me.



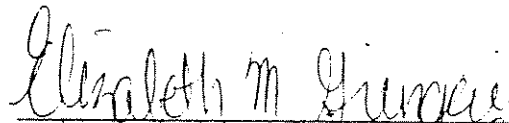
Notary Public RICHARD M. COTTER
My Commission Expires: 12-14-1991

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

October 27, 1989

Then personally appeared before me the above-named Jean Smith, the Treasurer of R. Smith Associates, Inc., and acknowledged the foregoing instrument to be her free act and deed and the free act and deed of R. Smith Associates, Inc., before me.



Notary Public Elizabeth M. Gungor
My Commission Expires: Dec. 16, 1994

that the Planning Board or the Town concludes, in their sole discretion, that the Developer is not so constructing such ways, the Developer shall provide security sufficient in the Planning Board or Town's opinion for the construction and completion of such ways and services as shown on the aforesaid plan.

5. The provisions of sections 2, 3 and 4 above as pertaining to a particular unit or units may be waived in writing by the Planning Board upon provision of security sufficient in its opinion for the construction and completion of the way and services necessary to provide access and service to such unit or units.

6. The developer will incorporate the terms and conditions of this agreement in any sales agreement for the sale of any of the aforementioned units.

7. This agreement shall be binding upon successors and assigns of the Developer provided, however, that the obligations under this agreement of any grantee or grantees of any particular unit or units or their successors in title shall be limited to way and services necessary to provide access and service to the unit bought.

8. This agreement shall run with the land included in the Special Permit and operate as a restriction thereof to be enforced by the Town.

9. Two years from the date of endorsement of the aforesaid plan, or such further time as may be approved by the Planning Board, the Planning Board shall have the power to rescind the Special Permit if all the ways and appurtenant easements, including drainage facilities, are not completed, except as to units hereafter released from this restrictive agreement by the Planning Board.

10. The land included in the Special Permit is encumbered by and subject to the following mortgages which, however, are subordinated to this covenant:

- (a) Mortgage granted by the Developer to Boston Federal Savings Bank dated July 24, 1989, and recorded with the Middlesex South Registry of Deeds at Book 9966, Page 3/4, and the Middlesex South Registry of the Land Court as Document No. 803578; and
- (b) Mortgage granted by the Developer to Bank of New England North, N.A., dated July 24, 1989, and recorded with said Deeds at Book 9966, Page 358, and with said Land Court as Document No. 803581.

Accepted by the Planning Board:

TOWN OF ACTON PLANNING BOARD

By: Roland Barff
Its: Town Planner

Accepted by the Town:

TOWN OF ACTON, MASSACHUSETTS

By: Don R. Johnson
Its: Town Manager